

1 nineteenth and twentieth causes of action to April 21, 1995;

2 e. On April 7, 1995 the Court denied Armstrong's *in pro per ex parte* application to
3 continue the hearing on the summary adjudication motion re the thirteenth, sixteenth, seventeenth,
4 nineteenth and twentieth causes of action.

5 The Wollersheim Declaration

6 f. Included in Scientology's proposed Order of Permanent Injunction on the twentieth
7 cause of action was the following language:

8 "1. Remove all information concerning Scientology, the Church and/or any person
9 referred to in paragraph 1 of the "Mutual Release of All Claims and Settlement
10 Agreement" of December, 1986, from any and all data bases, electronic or otherwise,
11 within the possession, custody or control of FACTNet;"

12 f. On April 10, 1995, Armstrong filed the Declaration of Lawrence Wollersheim in an
13 effort to protect FactNet from being subjected to inclusion within any court ordered permanent
14 injunction. This is the only paper that Armstrong has filed in opposition to the motions for summary
15 adjudication. He has filed no separate statements and no points and authorities. Therefore,
16 Armstrong's sole submission is legally insufficient and is thus an ineffective opposition to the
17 pending motions.

18 Armstrong's Bankruptcy Filing

19 4. On April 19, 1995, Armstrong sought the protection of the bankruptcy court which
20 issued an automatic stay of the instant action.

21 5. On April 20, 1995, this Court ordered the instant action stayed and set a status
22 conference for August 3, 1995.

23 Current Status

24 6. On August 3, 1995, this Court set the hearing on the two pending summary
25 adjudication motions for September 29, 1995.

26 7. A hearing on plaintiff's two motions for summary judgment/adjudication is set herein
27 on September 29, 1995. Defendant's opposition papers to both motions shall therefore be filed and
28 served on or before September 15, 1995.

1 Armstrong's Need For Relief

2 8. I am informed and believe that the hearing on the motion was previously set, but not
3 heard because defendant had filed for relief in the bankruptcy court which had issued a stay to this
4 court. I am further informed and believe that before the stay issued from the bankruptcy court, Mr.
5 Armstrong was in pro per and, but for an effort to prevent the Court from bringing FactNet within
6 the scope of any permanent injunction failed to timely file his opposition papers to the then-pending
7 C.C.P. section 437c motions. Thus, he is technically is default with respect thereto.

8 9. As part of Armstrong's bankruptcy litigation, on May 15, 1995, he filed and served
9 upon Church of Scientology International a separate statement and supporting evidence that was
10 what he would have liked to have filed in this Court in opposition to the then-pending C.C.P.
11 section 437c motions, but did not. Thus, for four months, CSI has been on notice as to the factual
12 basis for Armstrong's opposition to said motion. (Factual support in this regard is set forth in the
13 Declaration of Gerald Armstrong which is attached hereto.) Thus, Scientology will not be
14 prejudiced by allowing Armstrong a full opportunity to litigate his opposition to the pending
15 summary adjudication motions.

16 10. I have personally reviewed the factual basis solely gathered by defendant Armstrong
17 which was served on Scientology on May 15, 1995, and upon which he bases his oppositions to the
18 currently pending summary judgment motions. I believe them to be meritorious. The essence of
19 such merit is that as part of the settlement agreement, Scientology promised not to engage in any
20 further fair game activities against Armstrong which included a promise not to reveal any facts about
21 Armstrong relating to the time period preceding the settlement. Prior to any claimed breach of the
22 agreement by Armstrong, Scientology repeatedly breached its promises to Armstrong by publishing
23 and distributing false statements about Armstrong to the courts and to the press in the United States
24 and abroad. **These facts have not previously been presented to this Court.** Therefore, as to the
25 enforcement of the contract, Armstrong is prepared to present a factually based defense at least on
26 the grounds of fraud and on the failure of consideration as a discharge of Armstrong's duty to
27 perform. Separate Statements and Evidence in Support thereof in opposition to the pending motions
28 are presently completed and ready for filing (as mentioned Scientology has had service of these

1 papers since May 15, 1995).

2 11. If Armstrong cannot file these papers he will be prejudiced because he will have been
3 deprived of the opportunity to participate in a hearing the likely result of which will be orders
4 seriously impacting the fundamental constitutional rights to free speech, freedom of religion and the
5 right to employment.

6 12. The only papers in opposition that are not prepared at the time of the submission of
7 this *ex parte* application are the opposing points and authorities.

8 13. It will be extremely difficult, if not impossible, for me to adequately prepare both
9 oppositions by today. Mr. Armstrong, however one may consider him, is deserving of an adequate
10 defense. His rights, which hang in the balance, are as important as any which are fundamental to
11 our democracy.

12 14. I have been reluctant to accept further representation in this case because it is pro
13 bono, however, I believe that both the issues and rights at stake are fundamental. In addition, I
14 believe that Mr. Armstrong should not be compelled to endure any attempt at the wholesale
15 destruction of his rights without the benefit of being represented by a lawyer. Thus, I request a brief
16 extension of time so that I can properly do my job.

17 Relief Requested

18 15. With the foregoing in mind, I would like two orders. First, I would like an order
19 allowing Armstrong to file an opposition to the pending summary adjudication motion. Second, I
20 would like an order allowing such opposition to be filed and personally served on Mr. Wilson's
21 office by 10:00 a.m. on September 18, 1995.

22 Request to Preserve Appellate Record

23 16. Finally, if the Court denies Armstrong permission to file any papers in opposition to
24 the motions, he would like permission to file or lodge with the Court today the papers that he would
25 have filed in opposition to the motions so that the record is complete for the purposes of appeal.

26 17. I have given notice of the present application for *ex parte* orders to counsel for
27 plaintiff in the following manner:

28 By advising counsel after yesterday's *ex parte* application that an additional

1 application would be made today.

2 I received the following response to said notice: Mr. Wilson will appear.

3 Under penalty of perjury pursuant to the laws of the State of California I hereby declare that
4 the foregoing is true and correct according to my first-hand knowledge, except those matters stated
5 to be on information and belief, and as to those matters, I believe them to be true.

6 Executed on September 15, 1995, at San Anselmo, California

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A large, stylized handwritten signature in black ink, written over the text of line 6. The signature is highly cursive and appears to be a name like "John Wilson".